

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 6 be amended to read as follows:

- 1 Page 7, between lines 14 and 15, begin a new paragraph and insert:
- 2 "SECTION 3. IC 31-19-2-4.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2006]: **Sec. 4.5. A court may not grant a**
- 5 **petition for adoption filed by:**
- 6 (1) a sexually violent predator (as described in
- 7 IC 35-38-1-7.5); or
- 8 (2) a person who was at least eighteen (18) years of age at the
- 9 time of the offense and who committed child molesting (IC
- 10 35-42-4-3) or sexual misconduct with a minor (IC 35-42-4-9)
- 11 against a child less than sixteen (16) years of age:
- 12 (A) by using or threatening the use of deadly force;
- 13 (B) while armed with a deadly weapon; or
- 14 (C) that resulted in serious bodily injury.
- 15 SECTION 4. IC 31-30-1-2.5 IS ADDED TO THE INDIANA
- 16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 17 [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A juvenile court may not**
- 18 **appoint a person to serve as the guardian or custodian of a child if**
- 19 **the person is:**
- 20 (1) a sexually violent predator (as described in
- 21 IC 35-38-1-7.5); or
- 22 (2) a person who was at least eighteen (18) years of age at the
- 23 time of the offense and who committed child molesting (IC
- 24 35-42-4-3) or sexual misconduct with a minor (IC 45-42-4-9)
- 25 against a child less than sixteen (16) years of age:

- (A) by using or threatening the use of deadly force;**
- (B) while armed with a deadly weapon; or**
- (C) that resulted in serious bodily injury.**

SECTION 5. IC 31-37-19-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 10.5. (a) This section applies to a child at least twelve (12) years of age who is adjudicated a delinquent child for committing an act that would be child molesting (IC 35-42-4-3) if committed by an adult and:**

- (1) is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or**
- (2) that results in serious bodily injury.**

**(b) Notwithstanding any other provision of this chapter, a juvenile court shall transfer wardship of a child described in subsection (a) to the department of correction until the child becomes twenty-one (21) years of age.**

**(c) Notwithstanding IC 11-10-2-5, the department of correction may not reduce the period ordered under this section."**

Page 8, between lines 26 and 27, begin a new paragraph and insert:  
"SECTION 7. IC 35-42-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. (a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:**

- (1) it is committed by a person at least twenty-one (21) years of age;**
- (2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;**
- (3) it results in serious bodily injury; or**
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.**

**(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:**

- (1) it is committed by using or threatening the use of deadly force;**
- (2) it is committed while armed with a deadly weapon; or**
- (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.**

**(c) It is a defense that the accused person reasonably believed that**

the child was sixteen (16) years of age or older at the time of the conduct.

**(d) Notwithstanding IC 35-50-2-2, a person who is at least twenty-one (21) years of age who commits child molesting:**

**(1) while committing or attempting to commit:**

**(A) criminal confinement (IC 35-42-3-3); or**

**(B) kidnapping;**

**(2) by using or threatening the use of deadly force or while armed with a deadly weapon; or**

**(3) that results in serious bodily injury;**

**shall receive a mandatory nonsuspendible minimum sentence of at least twenty-five (25) years. A person sentenced under this subsection does not earn credit time under IC 35-50-6-3 and is not eligible for credit time under IC 35-50-6-3.3 or any other statute or rule."**

Page 8, between lines 41 and 42, begin a new paragraph and insert:

**"SECTION 9. IC 35-50-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 15. (a) As used in this section, "severe bodily injury" means an injury that creates a substantial risk of death or causes:**

**(1) serious permanent disfigurement;**

**(2) protracted loss or impairment of the function of a bodily member or organ; or**

**(3) death.**

**(b) The state may seek, on a page separate from the rest of a charging instrument, to have a person who allegedly committed an offense sentenced to an additional fixed term of imprisonment as a child batterer if the state can show beyond a reasonable doubt that the person:**

**(1) was at least twenty-one (21) years of age at the time the person committed the offense; and**

**(2) knowingly or intentionally inflicted severe bodily injury on a child less than fourteen (14) years of age.**

**(c) If the person was convicted of the offense in a jury trial, the jury shall reconvene to hear evidence in the enhancement hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall hear evidence in the enhancement hearing.**

**(d) If the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person was at least twenty-one (21) years of age at the time the person committed the offense, and that the person knowingly or intentionally inflicted severe bodily injury on a child less than fourteen (14) years of age, the court shall sentence the person to an additional nonsuspendible fixed term of**

1       imprisonment of twenty-five (25) years.

2       (e) A person sentenced under this section does not earn credit  
3       time under IC 35-50-6-3 for the enhancement imposed under this  
4       section and is not eligible for credit time under IC 35-50-6-3.3 or  
5       any other statute or rule for the enhancement imposed under this  
6       section."

7       Page 15, between lines 12 and 13, begin a new paragraph and insert:

8       "SECTION 15. [EFFECTIVE JULY 1, 2006] (a) IC 35-42-4-3, as  
9       amended by this act, applies only to crimes committed after June  
10      30, 2006.

11      (b) IC 31-37-19-10.5 and IC 35-50-2-15, both as added by this  
12      act, apply only to acts committed after June 30, 2006."

13      Renumber all SECTIONS consecutively.

      (Reference is to ESB 6 as printed February 17, 2006.)

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Representative Bright